



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION
(A-428-840)

Lightweight Thermal Paper from Germany: Notice of Final Results of the 2009-2010
Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of
Commerce.

SUMMARY: On December 7, 2011, the Department published the preliminary results of the 2009-2010 administrative review for the antidumping duty order on lightweight thermal paper from Germany.¹ The review covers one manufacturer/exporter: Koehler. The period of review (“POR”) is November 1, 2009, through October 31, 2010. As a result of our analysis of the comments received, the final results do not differ from the preliminary results. The final weighted-average dumping margin for this company is listed below in the “Final Results of Review” section of this notice.

EFFECTIVE DATE: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or George McMahon,
AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S.
Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;
telephone: (202) 482-3692 and (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:

¹ See Lightweight Thermal Paper From Germany: Notice of Preliminary Results of Antidumping Duty Administrative Review, 76 FR 76360 (December 7, 2011) (“Preliminary Results”).

Comments from Interested Parties

We invited parties to comment on our Preliminary Results. Koehler and petitioner submitted case briefs on January 6, 2012, and rebuttal briefs on January 20, 2012.

On February 14, 2012, the Department published a final rule in the Federal Register,² modifying its methodology for calculating the weighted-average dumping margins and antidumping duty assessment rate in administrative reviews in order to eliminate “zeroing.” On February 15, 2012, Koehler submitted comments regarding calculation of its final dumping margin, requesting that the Department apply the Final Rule in the instant review and also making an additional zeroing argument that it had not raised in its case brief. On February 17, 2012, pursuant to 19 C.F.R. § 351.302(d), petitioner requested that the Department reject Koehler’s February 15, 2012, submission. On February 21, 2012, pursuant to 19 CFR § 351.302(d)(1)(i), the Department rejected Koehler’s February 15, 2012, submission in its entirety because it contained an untimely filed written argument, but stated that Koehler could resubmit comments without the untimely filed zeroing argument. On February 24, 2012, Koehler refiled its comments, and on February 27, 2012, petitioner requested that the Department again reject Koehler’s refiled comments. The Department determined that Koehler’s February 24, 2012, submission did not contain untimely filed comments, and accepted the submission. The Department will not apply the Final Rule in the instant segment of the proceeding because the methodology outlined in the Final Rule applies to pending reviews when the preliminary determination is issued after April 16, 2012. The preliminary determination in the instant review was issued well before April 16, 2012.

² See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (“Final Rule”).

Scope of the Order

The scope of this order includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m^2) (with a tolerance of $\pm 4.0 \text{ g/m}^2$) or less; irrespective of dimensions;³ with or without a base coat⁴ on one or both sides; with thermal active coating(s)⁵ on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;⁶ and without an adhesive backing.

Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) under subheadings 3703.10.60, 4811.59.20, 4811.90.8020, 4811.90.8030, 4811.90.8040, 4811.90.8050, 4811.90.9010, 4811.90.9030, 4811.90.9035, 4811.90.9050, 4811.90.9080, 4811.90.9090, 4820.1020, and 4823.4000.

Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Period of Review

The POR is November 1, 2009, through October 31, 2010.

³ LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo and converted rolls (as well as LWTP in any other form, presentation, or dimension) are covered by the scope of these orders.

⁴ A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

⁵ A thermal active coating is typically made of sensitizer, dye, and co-reactant.

⁶ A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the “Issues and Decision Memorandum for the Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order on Lightweight Thermal Paper from Germany,” from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, (“Issues and Decision Memorandum”), dated concurrently with this notice and which is hereby adopted by this notice. A list of the issues which parties have raised, and to which we have responded in the Issues and Decision Memorandum, is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available in the Central Records Unit, main Commerce Building, Room 7046. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The signed Issues and Decision Memorandum and electronic version of the Issues and Decision Memorandum are identical in content.

Final Results of Review

We determine that the following weighted-average margin exists for the period November 1, 2009, through October 31, 2010:

Manufacturer/Exporter	Weighted-Average Margin (percent) Final Rate
Papierfabrik August Koehler AG	3.99

Duty Assessment

We have been enjoined from liquidating entries of the subject merchandise produced and exported by Koehler.⁷ Therefore, we do not intend to issue liquidation instructions to U.S. Customs and Border Protection (“CBP”) for such entries covered by this administrative review, until the preliminary injunction issued on February 5, 2009, is lifted.

Upon lifting of the injunction, the Department shall determine and CBP shall assess antidumping duties on all appropriate entries. Pursuant to 19 CFR § 351.212(b)(1), the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. If any importer-specific assessment rates calculated in the final results are above de minimis (i.e., at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries.

⁷ On February 5, 2009, the U.S. Court of International Trade (“ITC”) issued a preliminary injunction enjoining liquidation of certain entries which are subject to the antidumping duty order on lightweight thermal paper from Germany for entries entered or withdrawn from warehouse for consumption on or after November 20, 2008. Koehler was granted the injunction against liquidation as part of its suit against the ITC’s injury determination in the investigation.

To determine whether the duty assessment rates covering the period were de minimis, in accordance with the requirement set forth in 19 CFR § 351.106(c)(2), for each respondent we calculated importer (or customer)-specific ad valorem rates by aggregating the dumping margins calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific ad valorem rate is greater than de minimis, and the respondent has reported reliable entered values, we apply the assessment rate to the entered value of the importer's/customer's entries during the review period. Where an importer (or customer)-specific ad valorem rate is greater than de minimis and we do not have reliable entered values, we calculate a per-unit assessment rate by aggregating the dumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department clarified its “automatic assessment” regulation on May 6, 2003. See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see Antidumping and Countervailing Duty Proceedings Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following antidumping duty deposit rates will be effective upon publication of the final results of this administrative review for all shipments of lightweight thermal paper from Germany entered, or withdrawn from warehouse, for consumption on or after the publication

date of these final results, as provided for by section 751(a)(1) of the Tariff Act of 1930, as amended (the Act): (1) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (“LTFV”) investigation, the cash deposit rate will continue to be the company-specific rate established for the most recent period; (2) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered by this review, a prior review, or the LTFV investigation, the cash deposit rate will be 6.50 percent, the all-others rate established in the LTFV investigation. See Antidumping Duty Orders: Lightweight Thermal Paper from Germany and the People’s Republic of China, 73 FR 70959 (November 24, 2008). These cash deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent increase in antidumping duties by the amount of antidumping and/or countervailing duties reimbursed.

Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 351.305(a)(5). Timely written notification of the

return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

April 2, 2012
Date

APPENDIX I

List of Comments in the Issues and Decision Memorandum

Comment 1: Whether the Language of the Statute and Governing Regulation Allows the Department's Disallowance of Certain Post-Sale Price Adjustments

Comment 2: Whether the Monatsbonus Rebate is Legitimate

Comment 3: Whether the Department's Decision Suggest That All Strategies Intended to Reduce Dumping Are "Ipso Facto Illegitimate"

Comment 4: Whether to Recalculate Koehler's CEP Profit

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